

## Federal Acquisition Regulation

## 22.103-4

U.S. Virgin Islands. In addition to providing recruitment assistance to contractors, cooperation with the local State Employment Service offices will further the national program of maintaining continuous assessment of manpower requirements and resources on a national and local basis.

(c) The U.S. Department of Labor is responsible for the administration and enforcement of the Occupational Safety and Health Act. The Department of Labor's Wage and Hour Division is responsible for administration and enforcement of numerous wage and hour statutes including Davis-Bacon and Related Acts, McNamara-O'Hara Service Contract Act, Walsh-Healey Public Contracts Act, Copeland Act, and Contract Work Hours and Safety Standards Act. Contracting officers should contact the Wage and Hour Division's regional offices when required by the subparts relating to these statutes unless otherwise specified. Addresses for these offices may be found at 29 CFR 1, Appendix B.

[48 FR 42258, Sept. 19, 1983, as amended at 56 FR 55374, Oct. 25, 1991; 68 FR 28082, May 22, 2003; 71 FR 36931, June 28, 2006]

### 22.103 Overtime.

#### 22.103-1 Definition.

*Normal workweek*, as used in this subpart, means, generally, a workweek of 40 hours. Outside the United States and its outlying areas, a workweek longer than 40 hours is considered normal if—

(1) The workweek does not exceed the norm for the area, as determined by local custom, tradition, or law; and

(2) The hours worked in excess of 40 in the workweek are not compensated at a premium rate of pay.

[48 FR 42258, Sept. 19, 1983 as amended at 51 FR 12293, Apr. 9, 1986; 66 FR 2130, Jan. 10, 2001; 68 FR 28082, May 22, 2003]

#### 22.103-2 Policy.

Contractors shall perform all contracts, so far as practicable, without using overtime, particularly as a regular employment practice, except when lower overall costs to the Government will result or when it is necessary to meet urgent program needs. Any approved overtime, extra-pay shifts, and

multishifts should be scheduled to achieve these objectives.

#### 22.103-3 Procedures.

(a) Solicitations normally shall not specify delivery or performance schedules that may require overtime at Government expense.

(b) In negotiating contracts, contracting officers should, consistent with the Government's needs, attempt to (1) ascertain the extent that offers are based on the payment of overtime and shift premiums and (2) negotiate contract prices or estimated costs without these premiums or obtain the requirement from other sources.

(c) When it becomes apparent during negotiations of applicable contracts (see 22.103-5(b)) that overtime will be required in contract performance, the contracting officer shall secure from the contractor a request for all overtime to be used during the life of the contract, to the extent that the overtime can be estimated with reasonable certainty. The contractor's request shall contain the information required by paragraph (b) of the clause at 52.222-2, Payment for Overtime Premiums.

#### 22.103-4 Approvals.

(a) The contracting officer shall review the contractor's request for overtime. Approval of the use of overtime may be granted by an agency approving official after determining in writing that overtime is necessary to—

(1) Meet essential delivery or performance schedules;

(2) Make up for delays beyond the control and without the fault or negligence of the contractor; or

(3) Eliminate foreseeable extended production bottlenecks that cannot be eliminated in any other way.

(b) Approval by the designated official of use and total dollar amount of overtime is required before inclusion of an amount in paragraph (a) of the clause at 52.222-2, Payment for Overtime Premiums.

(c) Contracting officer approval of payment of overtime premiums is required for time-and-materials and labor-hour contracts (see paragraph (a)(8) of the clause at 52.232-7, Payments Under Time-and-Materials and Labor-Hour Contracts).